

February 7, 1997

OFFICE OF THE HEARING EXAMINER
KING COUNTY, WASHINGTON

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REPORT AND RECOMMENDATION TO THE METROPOLITAN KING COUNTY COUNCIL.

SUBJECT: Department of Development and Environmental Services File No. **L95P0028**
Proposed Ordinance No. **97-25**

COUNTRY CLUB NORTH
Preliminary Plat Application

Location: Between Southeast 238th Street (if extended) and Southeast 240th Street, and
139th Avenue Southeast (if extended) and 140th Avenue Southeast

Owner/
Developer: William Goodwin
13821 Southeast 252nd Place
Kent, Washington 98042

SUMMARY OF RECOMMENDATIONS:

Division's Preliminary: Approve, subject to conditions
Division's Final: Approve, subject to conditions (modified)
Examiner: Approve, subject to conditions (modified)

PRELIMINARY MATTERS:

Application submitted: December 28, 1995
Notice of complete application: December 28, 1995

EXAMINER PROCEEDINGS:

Hearing Opened: January 30, 1997
Hearing Closed: January 30, 1997

Participants at the proceedings and the exhibits offered and entered are listed in the attached minutes.
A verbatim recording of the hearing is available in the Office of the King County Hearing Examiner.

ISSUES ADDRESSED:

- Drainage
- Sidewalks for walking school children

FINDINGS, CONCLUSIONS & RECOMMENDATION: Having reviewed the record in this matter, the Examiner now makes and enters the following:

FINDINGS:

1. General Information.

Owner/Developer: William Goodwin
13821 Southeast 252nd Place
Kent, Washington 98042
STR: 12-22-05
Location: Between Southeast 238th Street (if extended) and Southeast 240th Street, and 139th Avenue Southeast (if extended) and 140th Avenue Southeast
Zoning: R-4-P
Acreage: 8.44 acres
Number of Lots: 23
Density: 2.6 dwelling units per acre
Typical Lot Size: Ranges from approximately 5,50 to 6,660 square feet
Proposed Use: Single-family detached
Sewage Disposal: Soos Creek Water and Sewer
Water Supply: Water District #111
Fire District: King County #37
School District: Kent School District

2. Except as modified herein, the facts set forth in the King County Land Use Services Division's preliminary report to the King County Hearing Examiner for the January 30, 1997, public hearing are found to be correct and are incorporated herein by reference. Copies of the LUSD report will be attached hereto for submittal to the Metropolitan King County Council. The LUSD staff recommends approval of the application, subject to conditions.
3. The Applicant, William Goodwin, proposes to subdivide 8.44 acres into 23 lots for single family housing development within the R-4-P zone. This is an infill development within a largely urbanized area lying east of the City of Kent. The site is generally flat with a slight gradient downslope to the west where a heavily grazed wetland lies. Existing dwellings and outbuildings are to be removed except for a newer residence in the northeast corner of the property on proposed Lot No. 1.
4. Most of the issues of concern with respect to this proposed development relate to problems

associated with water. Drainage from the plat will flow from a R/D pond in Tract B south to a ditch within the right of way for Southeast 240th Street, then west parallel to the arterial. A number of culverts within the existing downstream system are undersized to accommodate projected flows. However, a County CIP project scheduled for the section of Southeast 240th Street east of 116th Avenue Southeast is expected to remove these constrictions within the downstream system. The conditions require plat construction to either be delayed till the CIP drainage improvements are installed or to provide onsite over-detention of stormwater.

5. The wetland on the western half of the property outlets to the south into a swale across Tax Lot No. 78 owned by Larry and Kathy Peters, who contend that grading done on the plat site some five years ago increased flows across their property. They seek assurances that plat development will not further increase flooding problems.
6. As proposed, plat development should probably decrease flooding problems on Tax Lot No. 78. Water onsite which now sheet-flows towards the wetland from the east will in the future be picked up within the onsite drainage system and piped directly to the Southeast 240th Street ditch. Moreover, after development the grazed pasture wetland will be set aside in a sensitive areas tract which will allow vegetation to reclaim it. This natural revegetation will increase the water retention capacity of the wetland. Even so, the plat conditions will be amended to require at engineering plan review consideration of the feasibility of installing an overflow pipe at the wetland outlet to allow flood level flows to be diverted to the drainage pipe while at the same time maintaining wetland hydrology.
7. Country Club North will be required to provide sidewalks along its frontage on Southeast 240th Street, and the County CIP will include sidewalk construction west of the plat. Nonetheless, there may remain a section of Southeast 240th Street between the plat and the terminus of the CIP where sidewalks will be absent. If students residing within the plat will be required to walk to the Kent School District junior high or elementary schools on 132nd Avenue Southeast north of Southeast 240th Street, a section of Southeast 240th Street without sidewalks would present a dangerous walking condition. Although there is a gravel shoulder along the north side of the right-of-way, pedestrians are hemmed in by speeding arterial traffic on one side and a deep drainage ditch on the other. In order to comply with the safe walking provisions of RCW 58.17.110, the Applicant will need to provide the missing sidewalk connection west to the CIP unless the Kent School District commits to busing students who attend either of the schools on 132nd Avenue Southeast.

CONCLUSIONS:

1. If approved subject to the conditions recommended below, the proposed subdivision makes appropriate provision for the public health, safety and welfare; serves the public use and interest; and meets the requirements of RCW 58.17.110.
2. The conditions of approval recommended herein, including dedications and easements, will provide improvements which promote legitimate public purposes, are necessary to serve the subdivision and are proportional to its impacts; are required to make the proposed plat reasonably compatible with the environment; and will carry out applicable state laws and regulations and the laws, policies and objectives of King County.

RECOMMENDATION:

APPROVE the preliminary plat of Country Club North, as revised and received June 6, 1996, subject to the following conditions of final plat approval:

1. Compliance with all platting provisions of Title 19 of the King County Code.
2. All persons having an ownership interest in the subject property shall sign on the face of the final plat a dedication which includes the language set forth in King County Council Motion No. 5952.
3. The plat shall meet the minimum density of the R-4 zone classification. All lots shall meet the minimum dimensional requirements of the R-4 zone classification or shall be as shown on the face of the approved preliminary plat, whichever is larger. Minor revisions to the plat which do not result in substantial changes may be approved at the discretion of the Department of Development and Environmental Services.
4. The applicant must obtain final approval from the King County Health Department.
5. All construction and upgrading of public and private roads shall be done in accordance with the King County Road Standards established and adopted by Ordinance No. 11187, as amended.
6. The applicant shall obtain the approval of the King County Fire Protection Engineer certifying the adequacy of the fire hydrant, water main, and fire flow to meet the standards of Chapter 17.08 of the King County Code.
7. Final plat approval shall require full compliance with drainage provisions set forth in King County Code 9.04 and the storm drainage requirements and guidelines as established by the Surface Water Management Division. Compliance may result in reducing the number and/ or location of lots as shown on the preliminary approved plat. The following conditions represent portions of the Code and requirements and shall apply to all plats.
 - a. Drainage plans and analysis shall comply with the 1990 King County Surface Water Design Manual and updates which were adopted by Public Rule effective January 1, 1995. DDES approval of the drainage and roadway plans is required prior to any construction.
 - b. Current standard plan notes and ESC notes, as established by DDES Engineering Review, shall be shown on the engineering plans.
 - c. The following note shall be shown on the final recorded plat:

"All building downspouts, footing drains, and drains from all impervious surfaces such as patios and driveways shall be connected to the permanent storm drain outlet as shown on the approved construction drawings # _____ on file with DDES and/or the Department of Public Works. This plan shall be submitted with the

application of any building permit. All connections of the drains must be constructed and approved prior to the final building inspection approval. For those lots that are designated for individual lot infiltration systems, the systems shall be constructed at the time of the building permit and shall comply with plans on file."

8. The following conditions specifically address drainage issues for this particular plat:

- a. A CIP project for the improvement of SE 240th Street from this development west to 116th Avenue SE is designed and pending construction slated for spring and summer 1997. The construction of this project will correct downstream drainage capacity problems outlined in the Level Three Drainage Analysis (received June 6, 1996).

The CIP drainage improvements necessary to improve the downstream drainage shall be installed prior to construction of this development. If, for any reason, the CIP project is canceled or delayed, this development can be constructed by over-detaining the stormwater detention system to the following release rate:

Stormwater detention shall be computed using an SCS-based hydrograph method (or other method approved by King County). The performance of the detention facility shall be such that discharge from the development shall be no more than the pre-developed 2-year/24-hour for design storm events up to and including the 100-year/24-hour storm event.

- b. At engineering design review it will be necessary to assure that sufficient hydrology is maintained to the onsite wetland while at the same time avoiding an increase in downstream flooding to Tax Lot 78. Consideration shall be given to installing a pipe at the site boundary where the wetland outlets to Tax Lot 78 to divert floodwaters east to the drainage outlet pipe while still maintaining adequate wetland hydrology.

9. The following road improvements are required for this subdivision to be designed and constructed according to the 1993 King County Road Standards.

- a. The internal access road from 140th Avenue SE shall be designed to the urban subaccess standard.
- b. The frontage of the site along 140th Avenue SE (west side only) shall be designed to the urban neighborhood collector standard.
- c. The frontage of the site along SE 240th Street (north side only) shall be designed to the urban principal arterial standard, with provision for a bike lane.
- d. Tract E shall be improved as a private access tract, a minimum of 26 feet wide, and improved to the minor access road standards in Section 2.03 of the King County Road Standards.
- e. Modifications to the above road conditions may be considered by King County pursuant to the variance procedures in the 1993 King County Road Standards, Section 1.08.

10. All utilities within proposed rights-of-way must be included within a franchise approved by the King County Council prior to final plat recording.
11. The applicant or subsequent owner shall comply with King County Code 14.75, Mitigation Payment System (MPS), by paying the required MPS fee and administration fee as determined by the applicable fee ordinance. The applicant has the option to either: (1) pay the MPS fee at final plat recording, or (2) pay the MPS fee at the time of building permit issuance. If the first option is chosen, the fee paid shall be the fee in effect at the time of plat application and a note shall be placed on the face of the plat that reads, "All fees required by King County Code 14.75, Mitigation Payment System (MPS), have been paid"; if the second option is chosen, the fee paid shall be the amount in effect as of the date of building permit application.
12. Lots within this subdivision are subject to King County Ordinance 10162 and Ordinance 12148 which imposed impact fees to fund school system improvements needed to serve new development. As a condition of final approval, fifty percent (50%) of the impact fees due for the plat shall be assessed and collected immediately prior to recording using the fee schedules in effect when the plat received final approval. The balance of the assessed fee shall be allocated evenly to the dwelling units in the plat and shall be collected prior to building permit issuance.
13. There shall be no direct vehicular access to or from Southeast 240th Street or 140th Avenue Southeast from abutting lots.
14. Lots 16-19 shall have undivided ownership of Tract E and be responsible for its maintenance.
15. A tract shall be created to provide access to Tract 'A' (park/recreation) and proposed Lot 14 (revision received June 6, 1996). The Homeowner's Association shall have undivided ownership of this access tract, and Lot 14 shall be responsible for its maintenance. The access tract shall be 20 feet wide and improved with an 18-foot-wide paved surface and controlled drainage. An easement for ingress/egress and utilities shall be provided for Lot 14.
16. The planter islands (if any) within the cul-de-sacs shall be maintained by the abutting lot owners. This shall be stated on the face of the final plat.
17. Preliminary plat review has identified the following specific requirements which apply to this project. All other applicable requirements from KCC 21A.24 shall also be addressed by the applicant.
 - a. Class 2 wetland(s) shall have a buffer width of 50 feet, measured from the wetland edge.
 - b. The wetland(s) and the respective buffers shall be placed in a Sensitive Area Tract (SAT).
 - c. A minimum building setback line of 15 feet shall be required from the edge of the SAT.

18. The following note shall be shown on the final engineering plan and recorded plat:

**RESTRICTIONS FOR SENSITIVE AREA TRACTS AND SENSITIVE
AREAS AND BUFFERS**

Dedication of a sensitive area tract/sensitive area and buffer conveys to the public a beneficial interest in the land within the tract/sensitive area and buffer. This interest includes the preservation of native vegetation for all purposes that benefit the public health, safety and welfare, including control of surface water and erosion, maintenance of slope stability, and protection of plant and animal habitat. The sensitive area tract/sensitive area and buffer imposes upon all present and future owners and occupiers of the land subject to the tract/sensitive area and buffer the obligation, enforceable on behalf of the public by King County, to leave undisturbed all trees and other vegetation within the tract/sensitive area and buffer. The vegetation within the tract/sensitive area and buffer may not be cut, pruned, covered by fill, removed or damaged without approval in writing from the King County Department of Development and Environmental Services or its successor agency, unless otherwise provided by law.

The common boundary between the tract/sensitive area and buffer and the area of development activity must be marked or otherwise flagged to the satisfaction of King County prior to any clearing, grading, building construction or other development activity on a lot subject to the sensitive area tract/sensitive area and buffer. The required marking or flagging shall remain in place until all development proposal activities in the vicinity of the sensitive area are completed.

No building foundations are allowed beyond the required 15-foot building setback line, unless otherwise provided by law.

19. The proposed subdivision shall comply with the Sensitive Areas Ordinance as outlined in KCC 21A.24. Prior to engineering plan approval, the applicant shall provide Notice on Title as outlined in KCC 21A.24.170. Permanent survey marking and signs as specified in KCC 21A.24.160 shall also be addressed prior to commencing construction activities on the site.
20. Suitable recreation space shall be provided, consistent with the requirements of KCC 21A.14.180 and KCC 21A.14.190. A recreation space plan shall be reviewed and approved by DDES and the King County Parks Division prior to engineering plan approval. If the recreation space remains within Tract A or is moved to another location fronting on Southeast 240th Street or 140th Avenue Northeast, a solid wooden fence, six feet high, shall be placed between the tract and road rights-of-way.
21. A homeowners' association or other workable organization shall be established to the satisfaction of DDES, which provides for the ownership and continued maintenance of the recreation and sensitive area tract(s).

Street trees shall be provided as follows:

- a. Trees shall be planted at a rate of one tree for every 40 feet of frontage along SE 240th and 140th Avenue Southeast. Spacing may be modified to accommodate sight distance requirements for driveways and intersections.
- b. Trees shall be located within the street right-of-way and planted in accordance with Drawing No. 5-009 of the 1993 King County Road Standards, unless King County Department of Transportation determines that trees should not be located in the street right-of-way.
- c. If the Department of Transportation determines that the required street trees should not be located within the right-of-way, they shall be located no more than 20 feet from the street right-of-way line.
- d. The trees shall be owned and maintained by the Homeowners' Association or other workable organization unless the County has adopted a maintenance program. This shall be noted on the face of the final recorded plat.
- e. The species of trees shall be approved by DDES and Public Works if located within the right-of-way, and shall not include poplar, cottonwood, soft maples, gum, any fruit-bearing trees, or any other tree or shrub whose roots are likely to obstruct sanitary or storm sewers, or that is not compatible with overhead utility lines.
- f. The applicant shall submit a street tree plan and bond quantity sheet for review and approval by DDES prior to engineering plan approval. Public Works shall also review the street tree plan if the street trees will be located within the right-of-way.
- g. The applicant shall contact Metro Service Planning at 684-1622 to determine if SE 240th Street or 140th Avenue SE is on a bus route. If either SE 240th Street or 140th Avenue SE is a bus route, the street tree plan shall also be reviewed by Metro.
- h. The street trees must be installed and inspected, or a performance bond posted, prior to recording of the plat. If a performance bond is posted, the street trees must be installed and inspected within one year of recording of the plat. At the time of inspection, if the trees are found to be installed per the approved plan, a maintenance bond must be submitted or the performance bond replaced with a maintenance bond, and held for one year. After one year, the maintenance bond may be released after DDES has completed a second inspection and determined that the trees have been kept healthy and thriving.

A \$538 landscape inspection fee shall also be submitted prior to plat recording. The inspection fee is subject to change based on the current County fees.

22. The following have been established by SEPA as necessary requirements of this development as mitigation. The Applicant shall demonstrate compliance with these items prior to final approval:

Construct an eastbound left-turn lane on SE 240 Street at the intersection with 140th Avenue Southeast. Channelization and illumination plans must be reviewed and approved by King County Traffic Engineering prior to engineering plan approval

(King County Comprehensive Plan Policy T-107).

23.
 - a. The engineering plans for this project shall identify the location of any wells on the site and provide notes which address the requirements for the contractor to abandon the well(s) pursuant to requirements outlined in the Washington Administrative Code (WAC 173-160).
 - b. Plan review for building permits on individual lots shall address the need for footing drains. A note to such effect shall be placed upon the final plat.
24. The following conditions shall apply to implement the P-suffix conditions that apply to this property:
 - a. Seasonal Clearing: Clearing and grading shall not be permitted between November 1 and March 31, unless otherwise approved by DDES (1991 Soos Creek Community Plan, pages 149-150).
 - b. Clearing and grading: The applicant shall demonstrate compliance with P-suffix condition regarding lot clearing and grading prior to engineering plan approval (1991 Soos Creek Community Plan, pages 148-159)
25. The Applicant shall provide a sidewalk on Southeast 240th Street from the plat frontage west to the County CIP unless the Kent School District commits, in writing, to either bus students residing in the plat to and from Meridian Junior High and Sunrise Elementary Schools or to assign them to other schools.

RECOMMENDED this 7th day of February, 1997.

Stafford L. Smith, Deputy
King County Hearing Examiner

TRANSMITTED this 7th day of February, 1997, to the following parties and interested persons:

William Goodwin
Shupe Holmberg
Larry and Cathy Peterson
John L. Scott Land Dept.

Nancy Hawkins
John L. Breeze
David Jenks

Greg Borba, DDES/LUSD
Kim Clauseen, DDES/LUSD
Jon Hansen, DDES/LUSD

Paulette Norman, KCDOT
Bruce Whittaker, DDES/LUSD
Lisa Pringle, DDES/LUSD
Steven C. Townsend, DDES/LUSD
Marilyn Cox, DDES/LUSD
Laura Casey, DDES/LUSD
King Conservation District

NOTICE OF RIGHT TO APPEAL
AND ADDITIONAL ACTION REQUIRED

In order to appeal the recommendation of the Examiner, written notice of appeal must be filed with the Clerk of the King County Council with a fee of \$125.00 (check payable to King County Office of Finance) **on or before February 21, 1997**. If a notice of appeal is filed, the original and 6 copies of a written appeal statement specifying the basis for the appeal and argument in support of the appeal must be filed with the Clerk of the King County Council **on or before February 28, 1997**. Appeal statements may refer only to facts contained in the hearing record; new facts may not be presented on appeal.

Filing requires actual delivery to the Office of the Clerk of the Council, Room 403, King County Courthouse, prior to the close of business (4:30 p.m.) on the date due. Prior mailing is not sufficient if actual receipt by the Clerk does not occur within the applicable time period. The Examiner does not have authority to extend the time period unless the Office of the Clerk is not open on the specified closing date, in which event delivery prior to the close of business on the next business day is sufficient to meet the filing requirement.

If a written notice of appeal and filing fee are not filed within fourteen (14) calendar days of the date of this report, or if a written appeal statement and argument are not filed within twenty-one (21) calendar days of the date of this report, the Clerk of the Council shall place a proposed ordinance which implements the Examiner's recommended action on the agenda of the next available Council meeting. At that meeting, the Council may adopt the Examiner's recommendation, may defer action, may refer the matter to a Council committee, or may remand to the Examiner for further hearing or further consideration.

Action of the Council Final. The action of the Council approving or adopting a recommendation of the Examiner shall be final and conclusive unless a proceeding for review pursuant to the Land Use Petition Act is commenced by filing a land use petition in the Superior Court for King County and serving all necessary parties within twenty-one (21) days of the date on which the Council passes an ordinance acting on this matter.

MINUTES OF THE JANUARY 30, 1997, PUBLIC HEARING ON DDES FILE NO. L95P0028 -
PRELIMINARY PLAT OF COUNTRY CLUB NORTH.

Stafford L. Smith was the Hearing Examiner in this matter. Participating at the hearing were Kim Claussen, Bruce Whittaker, and Shupe Holmberg.

The following exhibits were offered and entered into the hearing record:

- Exhibit No. 1 Department of Development and Environmental Services file No. L95P0028
- Exhibit No. 2 Department of Development and Environmental Services preliminary report, dated January 30, 1997
- Exhibit No. 3 Application dated December 28, 1995
- Exhibit N0. 4 Environmental checklist dated December 28, 1995
- Exhibit No. 5 Mitigated Declaration of Non-significance dated January 7, 1997
- Exhibit No. 6 Affidavit of Posting indicating December 31, 1996, as date of posting and January 6, 1997, as the date the affidavit was received by the Department of Development and Environmental Services
- Exhibit No. 7 Plat map dated June 6, 1996 (revision)
- Exhibit No. 8 Land Use map 643E & W; 649 E & W
- Exhibit No. 10 Conceptual drainage plan (revision received August 20, 1996)
- Exhibit No. 11 Geotechnical study by Geotech Consultants dated June 3, 1996
- Exhibit No. 12 Traffic study by Gibson Traffic dated April 11, 1996
- Exhibit No. 13 Wetland study by J.S. Jones & Assoc. dated April 14, 1995
- Exhibit No. 14 Letter from Larry and Cathy Peters received January 22, 1997 (with enclosed photographs)
- Exhibit No. 15 Proposed Conditions 25 and 26
- Exhibit No. 16 Revised Conceptual Drainage Plan
- Exhibit No. 17 Downstream drainage map
- Exhibit No. 18 Roadway and drainage plan
- Exhibit No. 19 North Peak Crest Drainage Modification
- Exhibit No. 20 Excerpt (3 pages) from Thomas Bros maps showing site and marking school locations in area

SLS:daz
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